



City of Seattle

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

Project Number: 3008417

Applicants: O. Thomas Harper, for Van Gogh Development Corporation

Address: 5721 35th Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a four-story residential building, with parking for 62 vehicles, in an environmentally critical area.*

The following Master Use Permit components are required:

Design Review - Section 23.41, Seattle Municipal Code (SMC)
Street-level Development Standards (setbacks) SMC 23.47A.008 A 3

SEPA-Threshold Determination (Chapter 25.05 SMC).

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

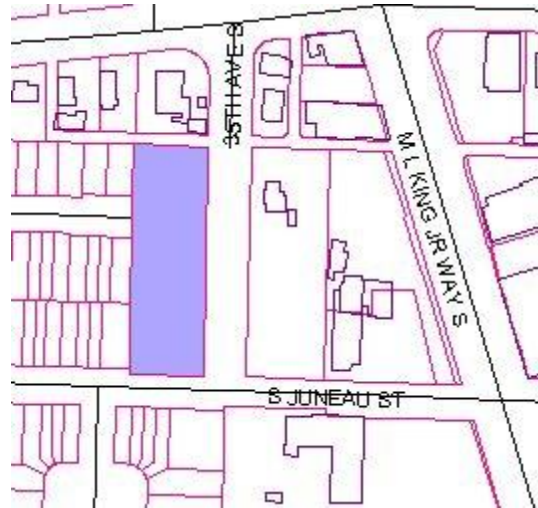
☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

*The project was originally noticed together with #3005902 (5722 35th Avenue S.) as a single development. Application 3005902, which includes proposed improvements to the 35th Avenue S. right-of-way, will be the subject of a later, separate Director's decision.

SITE BACKGROUND INFORMATION:

The site is made up of the south three-quarters of the easternmost end of the block situated between S. Orcas Street on the north, S. Juneau Street on the south, 33rd Avenue S. on the west and the unimproved 35th Avenue S. on the east. The western property line abuts a residential development known as Noji Gardens or Homesight's Noji Gardens. A portion of the site abuts the terminus of S. Mead Street to the west. The rectangular site measures approximately 315 feet in the north/south direction and 103 feet in the east/west direction. The total area is approximately 32,393 square feet in extent. There is a 16-foot, L-shaped alley that intervenes between S. Orcas Street and 35th Avenue S. and abuts the north property line.



This neighborhood, located a block west of M L King, Jr. Way South, is a part of a larger neighborhood that includes a strip of commercially zoned land which parallels that main transportation spine. The areas on either side of M L King, Jr. Way S. are predominately residential with some Lowrise development closer to the main arterial scattered within a large expanse of single-family zoning and development. The development site is located approximately midway between the Columbia City light rail station (three-quarters of a mile to the north) and the Othello light rail station (a mile to the south). The site is zoned Midrise with a 60-foot height limit. It lies within the overlay of the Southeast Seattle Reinvestment Area and is subject to the provisions of SMC Chapter 23.67.

The area that includes this site and the properties due west which are also zoned “Midrise” is anomalous within the general zoning pattern of the larger vicinity. Although zoned Midrise as well, with a sixty foot height limit, Noji Gardens, a 75-unit residential development, consists mainly of two-story duplex and triplex townhouses. In addition to Noji Gardens, Katherine’s Place, a 26-unit transitional and low income housing project, lies one half block to the east. The site lies approximately 20 vertical feet above Martin Luther King Jr. Way S. and cannot be accessed directly except by a pedestrian stair located at the dead end of S. Juneau Street.

There is an existing wetland on the southern portion of the western lot, which, with its 25-foot required buffer, occupies approximately 10, 436 square feet of the lot.

The subject-site development, which takes advantage of the scale of development allowed in the Midrise zone, proposes a four-story residential building. Approximately 50 residential units are to be contained within the structure. Parking will be partially subterranean and accessed from the alley. The project anticipates a total of 4,700 cubic yards of grading incidental to construction.

Public Comment

The Department received approximately ten comments, touching primarily on traffic issues and height, bulk and scale issues, during the SEPA public comment period that ended on September 17, 2008, but the bulk of the comments received were elicited at the Design Review public meetings and are noted below in the discussion of those meetings.

ANALYSIS - DESIGN REVIEW

Early Design Guidance Meeting –January 22, 2008

ARCHITECTS' PRESENTATION

Three alternate massing models for the site were briefly presented to the Board by the Mithun architectural team. The first scheme maximized the build-out of the site and consisted of two rectangular buildings, each aligned with the orthogonal grid. The west building had six residential floors over a three-level underground garage. The east building similarly had six floors of residential units, but over a two-level underground garage. Vehicular access in scheme 1 was entirely from the existing alley at the north of the development site. A second scheme explored reducing the overall size of the total development by reducing both units and parking, but the height of each building remained the same. The west building reduced parking by one floor but provided two levels of parking at or above grade. The east building kept two levels of parking but moved one level above grade. The second scheme splayed the southern portions of each of the buildings in a southeasterly direction. A second access point for the east building was provided from S. Juneau St. in this arrangement. The third scheme continued the exploration begun in the second scheme, reducing the overall building heights and reducing the amount of above grade parking. A second vehicular access point from S. Mead Street was introduced into the west building. Any development on the two sites was anticipated by the design team to meet LEED ® Silver certification. The intended clientele of the proposed owner-occupied residential units was said to be workforce-affordable.

Each of the options was presented with non-traditional street improvements within the 35th Avenue S. right-of-way. The street would provide a meandering path for pedestrians with very limited emergency vehicle access. The concept was said to promote improved pedestrian connectivity for the entire surrounding neighborhood, creating an attractively landscaped green corridor that would invite neighbors into and through the site. The intended clientele of the proposed owner-occupied residential units was said to be workforce-affordable.

After asking a number of clarifying questions following the architect's presentation, the Board elicited comments from members of the public attending the meeting.

Public Comments:

Approximately 25 members of the public attended the meeting and over half chose to make comments regarding the proposal. Comments solicited from the public included the following:

- Several of those attending were residents from Noji Gardens, which likewise is zoned Midrise like the west parcel of the development site with a height limit of sixty feet, but largely developed with two-story duplexes and triplexes. Several noted their appreciation of the opportunity to have their concerns heard and hoped that the board would appreciate their feelings that the massing of the project overwhelmed the adjacent community and wasn't a good fit in to the existing neighborhood.

- Several noted that they weren't against development of this land but had hoped for a project of less height and bulk.
- A number of the neighbors objected to the notion of taking access to a portion of the parking from S. Mead Street which terminated in a turn-around at the property line of the west parcel of the development site. Others objected to providing access to the east lot from S. Juneau, not a through street to M L King Jr. Way S. and already too narrow and congested in their estimation to accommodate additional traffic.
- Some members of the public raised issues about public safety, citing speeding and increased crime in the area.
- Some expressed concerns about shadows and sun blockage for homes directly to the north and west of the proposed project.
- Several members of the public suggested that any structures proposed for the west lot step back more generously from the property line with Noji Gardens to provide height, bulk and scale compatibility.

Board's Deliberations:

[Note: Since the Board reviewed the proposals for 5721 and 5722 35th Avenue South, as well as the 35th Avenue South intervening right-o-way, as a single development proposal, notes from the Early Design Guidance and Recommendation meetings incorporated into this Decision reflect the Board members' comments directed at elements within the entire development site. Maintaining the record of this broader context of deliberations has been deemed essential to communicating historical accuracy and providing a fuller understanding of that portion of the proposed development that lies totally within the site west of 35th Avenue South, the subject of this decision.]

After hearing the public comments the Board identified two major issues that needed to be satisfactorily addressed by the development team as the project proceeded from this conceptual phase through full design development:

- The first issue was put in the form of a question: *How can this project be a good neighbor to the existing neighborhood?* The proposed project is very large within its context and raises serious challenges about making an acceptable transition to the as-built context to the west (and possibly north) in terms of height, bulk and scale.
- The second issue involves the answer to additional questions: *What is the optimal configuration for vehicular access to the site?* The Board noted several constraints, most already voiced by the public, inherent in the size, the capacities and patterns of use of existing adjacent streets and alley, and the broader local street grid? Given some incipient answers to the optimal configuration of vehicular access to the overall development site, the Board then asked, *How should access solutions inform other design decisions?* For example, in what ways should each of the structures and their various facades meet the ground, in response to decisions regarding the locations of vehicular and pedestrian entries and in their relationships to the network of vehicular and pedestrian pathways planned for the development?

Since the west structure would not be allowed to move east beyond the west edge of the 35th Avenue S. right-of-way, the impracticality of any truly generous setting back of the entire mass of the structure from the west property boundary with the Noji Gardens was noted by the Board. Within the brief discussion surrounding the first question, however, it was generally felt that the west building needed to be pulled to the property line with the right-of-way of unopened 35th Avenue S. and the Board would support a departure from development standards to enable this. In order to inform their deliberations, the Board asked to see a demonstration of shadow and sunlight effects of the proposed buildings on their neighbors at the next meeting.

On the second issue, the Board indicated a desire to have the design team explore a “*woonerf*-like” (a real *woonerf* would be a through street used by motor vehicles, bicycles, prams and pedestrians on shared ground according to an egalitarian basis) opening into the 35th Avenue S. right-of-way at the northern edge of the site. This might provide for additional portals of entry to vehicular parking while providing for an attractive northern terminus of the pedestrian and emergency vehicle pathways.

The Board also requested that the development team at the next meeting provide the Board with a more thorough and detailed analysis of the proposed structures to the existing topography of the site and wider neighborhood. To this end, the Board requested that the design team present some additional sectional views and perspective drawings of the proposed structures, studies that might express the wider context of earth and built neighborhood.

The Board noted that the proposed buildings appeared to present extensive sections of a blank wall to pedestrians traversing the 35th Avenue South pathway. The Board would expect to see, at the next meeting, a great deal more of this courtyard area, with ample details of the façades adjacent to it, of landscaping materials, textures, pathway furnishings and artwork (if applicable) calculated to enhance the *attractive* pedestrian experience that the design team spoke of. Staff noted that the structure on the east parcel would be subject to the requirements of SMC 23.47A.008, Street-level development standards, including transparency and the prohibition of blank façade segments, as well as inclusion of an intervening use between the façade and parking.

DESIGN GUIDELINES

After visiting the site, considering the analysis of the site and context provided by the proponents, hearing public comment, and addressing their major concerns regarding the proposal, the Design Review Board members provided the siting and design guidance described below and identified by letter and number those siting and design guidelines found in the City of Seattle’s *Design Review: Guidelines for Multifamily & Commercial Buildings* of highest priority for this project. It is to be noted that the final design must respond to all the guidelines (except those clearly not applicable to the site) and not just those singled out as being of highest priority by the Board.

A-1 Responding to Site Characteristics

The siting of buildings should respond to specific site conditions and opportunities.

In citing this guideline to be of highest priority from the proposal, several site characteristics and desirable responses included in Design Review: Guidelines for Multifamily & Commercial Buildings have been singled out for consideration: “reflect, rather than obscure, natural topography...for instance, buildings should be designed to ‘step up’ hillsides to accommodate significant changes in elevation”; “designing the building(s) in relation to topography may help to reduce the visibility of parking garages”; “site buildings to avoid or lessen the impact of development on environmentally critical areas such as steep slopes, wetlands...”; and “design [to] ...minimize shadow impacts on adjacent structures....”

A-2 Streetscape Compatibility

The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.

A-3 *Entries should be clearly identifiable and visible from the street.*

A-4 Human Activity

New development should be sited and designed to encourage human activity on the street.

A-5 Respect for adjacent sites

Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities in adjacent buildings.

A-6 Transition between Residence and Street

For residential projects, the space between the buildings and sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors

A-8 Parking and Vehicle Access

Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

The guidelines above were chosen by the board to be of highest priority for the proposal, noting both the opportunities (a different kind of street experience, for example) and challenges (in particular, height, bulk and scale challenges) of the site, given the actual build out on properties to the north, west and south of the site. The Board considers the activation of 35th Avenue South important to the success of the project. The above-grade parking portion of the proposed structures should be designed to convey the strong impression that a clear design priority is to create a vibrant, pedestrian-friendly streetscape along the length of a street that intends to be totally pedestrian oriented.

B-1 Height, Bulk and Scale

Projects should be compatible with the scale of the development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to near-by, less intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.

There is an inherent potential conflict between any new development and the existing pattern of adjacent residential buildings built to a lower height, with less bulk and at a different scale. There is an established fabric in the area of relatively recent vintage, one that is expected to be the prevailing condition for some time to come, and this proposed development should demonstrate sensitivity to that fabric. This undoubtedly could most easily be accomplished through judicious set-backs and step-backs on the western lot. The building could achieve the

appearance of smaller pieces through the application of modulation techniques. The Board encouraged a pedestrian entry and connection to S. Mead Street, especially if any vehicular traffic to and from the site would be off S. Mead Street.

C-3 Human Scale

The design of new buildings should incorporate Architectural features, elements and details to achieve a good human scale.

The two 35th Avenue S. façades should be designed so as to be not without character or pedestrian amenity or interest. If a portion of the façade is screening an above grade or partially above grade garage, special care should be taken to provide a human scale along the sidewalk and to provide an inviting experience that engages pedestrians who make use of this north/south pathway. Provide active, not blank- facades. The proposed structures should not have large blank walls facing the street especially near sidewalks.

As stated above, the two façades along 35th Avenue S. should be designed so as to be not without character or pedestrian amenity or interest. (Staff notes that the west-facing and south-facing facades of the proposed structure on the east lot are subject to the street-level, street-facing development standards of SMC 23.47A. 008 which require transparency, prohibit blank facades and require an intervening use between the façade and parking within. Even if departures are requested from any or all of these development standards, the applicants must be prepared to show how their design proposal better meets the intent of the Code and these *Guidelines*.)

C-4 Exterior Finish Materials

Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

The Board noted the importance of this guideline for the project without further qualification. The Board was not prescriptive regarding materials, but would expect to see a choice of durable and sustainable materials and to be presented with samples of proposed colors and materials at the subsequent recommendation meeting.

C-5 Structured Parking Entrances

The presence and appearance of garage entrances should be minimized so that they do not dominate the street frontage of a building.

Garage entrances should be located where the topography of the site can minimize their dominance of a given façade. Garage entries should be subordinated to pedestrian entries.

D-1 Pedestrian Open Spaces and Entrances

Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.

Design public open space to promote a visually pleasing, safe, and active environment for both residents and pedestrians using the 35th Avenue South pathway. Solar access to the intended

areas of open space along the public pathway should be especially emphasized. Provide inviting and ample building entries, carefully integrated with the pedestrian path through paving and other features, including lighting and landscaping. Provide clear and visible signage identifying the buildings' (and units') addresses.

D-2 Blank Walls

Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they should receive design treatment to increase pedestrian comfort and interest. (See the remarks under C-3 above.)

D-5 Visual Impacts of Parking Structures

The visibility of all at-grade parking structures or accessory parking garages should be minimized. The parking portion of a structure should be architecturally compatible with the rest of the structure and streetscape. Open parking spaces and carports should be screened from the street and adjacent properties.

D-6 Screening of Dumpsters, Utilities and Service Areas

Building sites should be locate service elements like trash dumpsters...away from the street front where possible. ...they should be situated and screened from view and should not be located in the pedestrian right-of-way.

The Board would expect the applicant to explain in detail where trash dumpsters and containers for recyclable materials would be located, how they would be accessed by tenants, and how they would be serviced.

D-7 Pedestrian Safety

Project design should consider opportunities for enhancing personal safety and security in the environment under review.

D-8 Treatment of Alleys

The design of alley entrances should enhance the pedestrian street front.

D-12 Residential Entries and Transitions

For residential projects in commercial zones, the spaces between the residential entry and the sidewalk should provide security and privacy for residents and be visually interesting for pedestrians. Residential buildings should enhance the character of the streetscape with small gardens, stoops, and other elements that work to create a transition between the public sidewalk and private entry.

Guidelines D-5, D-7, D-8, and D-12 were cited to be of highest importance for a successful design outcome, but without further comment. D-5 and D-8 should be addressed in consideration of the broader discussion above regarding vehicular access to the site. D-7 and D-12 are clearly related to elements of A-2, A-3 and A-6 on page 5 above and other observations regarding the opportunities for the proposed structures to relate to the unique streetscape that is proposed.

E-2 Landscaping to Enhance the Building and/or Site

Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture and similar features should be appropriately incorporated into the design to enhance the project.

E-3 Landscape Design to Address Special Site Conditions

The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas and boulevards.

The design team should provide studies of the proposed pedestrian environment both along the streets and along the through-block connecting pathway. The applicant should be prepared to present details for a variety of streetscape and pedestrian pathway amenities, including lighting, overhead weather protection at entrances, signage and other elements calculated to generate a friendly and lively environment both at the perimeter of the site and within the 35th Avenue S. pathway.

Landscaping should be designed with the goal of realizing the prioritized guidelines, should soften the edge conditions where appropriate, and should contribute to an attractive and usable interior open space, courtyard area. The design should incorporate specific treatments to provide for attractiveness and an allure to the pedestrian through-site pathway and establish a genuine neighborhood amenity. The landscape plan should incorporate native plantings that will complement and reinforce the wetlands area on site. The Board would expect to see a comprehensive Landscape Plan, one that treats not only the on-site open space but the streets' edges as well. The long-term viability of the existing grove of pine trees as well as other trees and vegetation on site should be carefully evaluated and weighed in making design decisions regarding the siting of buildings and the location of functions and uses.

The above guidelines were selected by the Board to be of highest importance for the project. The applicant should note that each of the guidelines contained in ***Design Review: Guidelines for Multifamily and Commercial Buildings***, unless clearly inapplicable to the site or to the proposal, is important for a successful design outcome.

Departures from Development Standards:

The architects preliminarily identified the following departure from development standards that would be needed for the preferred option:

- SMC 23.45.056C: which requires a side setback for structures in a Midrise zone and would be applicable to the structure on the western portion of the development site.

The Board, as noted above, indicated a willingness to entertain the recommendation of a departure from this requirement, as they might entertain the recommendation of granting other departure(s) yet to be requested, provided such departure requests were integral to an overall satisfying design and providing that the design development responded adequately to the guidance regarding the desired relationship of the proposed building to the adjacent street/ pedestrian corridor and neighboring properties, as well as to the other provisions provided in the guidelines.

The Board expressed a desire to have the development team return for a second Early Design Guidance meeting. DPD seriously weighed this recommendation of the Board in light of the following considerations.

- The Board exhibited a familiarity with the site, heard substantial Public Comment and had adequate time during the course of the meeting to identify those guidelines that were of highest significance for the site and the project;
- Questions raised by both the Board and the public regarding vehicular ingress and egress from the site and the location of parking within the proposed buildings would benefit from being informed by a comprehensive Traffic Study, a requirement normally expected at the time of MUP application;
- The proposal, at a more refined and developed stage, would benefit from a thorough zoning review which would identify other departures from development standards necessary for any of the proposed alternatives but not identified by the applicant nor presented to the Board for their consideration;
- The proposal involves significant further discussions between the applicant and the City, and determinations by DPD and by SDOT regarding alternative street requirements; it appears that any alternatives will require the submission of designs for the right-of-way for the deliberation and the recommendations of the City of Seattle Design Commission;
- Presentations to the Design Commission for their consideration and recommendations regarding right-of-way improvements have been most successful from a process perspective when aligned and synchronous with Recommendation Meetings of the Design Review Board since the concerns of each Board can be made available to the other Board and inform the deliberations of each.

DPD made the determination that in this case the applicant should not return for a second Early Design Guidance meeting but should proceed to further design development, which would include a demonstrable response to the guidelines and guidance noted above, and to a Master Use Permit application. Subsequent to a successful application, the proposal would then be returned to the Design Review Board for a Recommendation Meeting, at which time the applicant would demonstrate the adequacy of the design's response to the stated guidelines and to the Board's earlier guidance.]

DESIGN REVIEW RECOMMENDATION MEETING—NOVEMBER 18, 2008

ARCHITECTS' PRESENTATION

At a regularly scheduled meeting of the Southeast Design Review Board (Area 4), held at 6:30 PM, on Tuesday, November 18, 2008, in the library of the Aki Kurose Middle School Academy, the applicants presented information about the proposed design and how it had responded to the Design Guideline priorities established at the Early Design Guidance Board meeting that was held on January 22, 2008, regarding this site. The presentation focused on a unified scheme that tied together a larger structure with five residential floors above a parking base east of 35th Avenue S. (the east building) with a four-story structure (the west building) located west of 35th Avenue S. The west building occupied the northern two-thirds of its site, with its southern façade, at the closest point, extending no closer than 30 feet from the wetland. The major portion of the structure was aligned in the north/south direction parallel to the right-of-way of 35th Avenue S., with perhaps the southernmost third of the massing canted towards the southeast, providing an alignment that responds to the angle of Martin Luther King Jr. Way.

It was explained that the project had benefitted from two major recommendations coming out of the Early Design Guidance meeting. The west building had been moved, as the Board recommended, as close as possible to the 35th Avenue S. right-of-way. Although requiring a departure from front setback requirements, this enabled the west building, located within the Midrise zone, to achieve a setback consistent with that of the east building which, since it was located in a commercial zone, and had no setback requirements. The move also enabled the mass of the structure to be pulled further from the west property line, mitigating impacts on the smaller residential structures west of the site. Added benefits and mitigation were demonstrated in the sun/shadow studies which indicated that the only time the west building would cast shadows over the structures to the west would be around the winter solstice for approximately the first 90 minutes after sunrise. A second design improvement with mitigating benefits was the decision to take all vehicular traffic off the alley rather than providing a garage entry from the cul-de-sac at the end of S. Mead St. which traverses the Noji Gardens development to the west.

The open space concept presented by the design team consisted of a five-part progression through the development site, with a drop-off plaza at the north, off the alley, providing for a turn-around related to the principal entries of each building. The next area to the south was depicted as a “community garden” consisting of a pedestrian pathway arrayed on either side with capped gabion seat walls with areas of retaining walls and terraces to the east and stormwater planters and other landscaping to the west. A “central green” lies at the geographical center of the development proposal, characterized by a continuation of the pedestrian pathway and a large terrace that terminates at the façade of the east building in an “art wall” and at the west at a secondary entrance into the structure, located at the knuckle where the rectilinear and canted portions of the building are joined. At the eastern side of the “green,” a paved path and set of stairs connect to a raised “residential patio” anent the façade of the east building.

The next portion of the interior open space/pedestrian pathway is entitled a “wetland overlook” and includes signage for a low wall “wetland interpretive.” This wetland overlook is then connected to a smaller plaza abutting S. Juneau Street and named after the large big leaf maple that extends into that right-of-way and is to be retained and protected by a street curb realignment on S. Juneau.

It was the explicit design intent to portray the east and west buildings as portions of a single architectural piece. The architectural vocabulary, consisting of a proportion of solids to openings, of fenestration type, of trellis and balconies, and of a selected palette of finish materials, is mirrored, one building to its opposite. The fiber cement siding that provides the predominate field for each façade is to be painted the same Dijon-style mustard color and to be set off in the composition of each building by smaller accent panels in four colors.

Public Comments:

Comments solicited from the public included the following:

- Residents from west of the site noted their appreciation for moving the west building further toward the east property line and for removing the vehicle entry from S. Mead Street, but some still felt the proposed massing still overwhelmed the residential structures immediately to the west;
- Wary of the increase in the apartment-living population in the area;

- Compliments regarding the attractiveness of the pedestrian pathway in the 35th Avenue S. right-of-way;
- Others noted that they weren't against development of the site but had conceptualized a project of less height and less bulk;
- Some were still concerned with providing vehicular access to the site east of 35th Avenue S. from S. Juneau Street, noting that it was too narrow and congested.

Board's Deliberations:

After hearing the public comments the Board began deliberations by addressing the two major issues they had identified at the time of Early Design guidance. The first issue had been put in the form of a question: *How can this project be a good neighbor to the existing neighborhood?* The neighbors to the west of the site, although within the same zone, lived in structures built to a lower height and at a different scale. Moving the proposed structure to the eastern edge of the site, as the Board had recommended, enabled the mass of the structure to be pulled further from the west property line, mitigating impacts on the smaller residential structures west of the site. Additionally, the Board noted the mitigation that had been demonstrated in the sun/shadow studies provided by the design team. The Board considered the departure from front setback requirements to be not only reasonable but fortuitous since it enabled the west building, located within the Midrise zone, to achieve a setback consistent with that of the east building.

Another strong design improvement with mitigating benefits was the decision to take all vehicular traffic off the alley rather than providing a garage entry from the end of S. Mead St. This appeared to the Board to address their concern to find *the optimal configuration for vehicular access to the site* given the limited capacities within existing patterns of use of adjacent streets and alley.

One of the questions dating from the Early Design guidance meeting remained less resolved in the Board's estimation. They had asked, *how should access solutions inform other design decisions?* For example, in the ways that each of the structures and their various facades meet the ground, in the relationship of vehicular to pedestrian entries, in the relationships of vehicular and pedestrian pathways.

A resolution might be found, the Board suggested, through a more clearly articulated relationship and correspondence between the inside and the outside of the structures, especially where the courtyard calls out for some intelligibility in that relationship--for instance, the connection to the secondary entrance to the west building at the knuckle where portions of the structure are conjoined. That is clearly a design asset. The lack of any real interior/exterior connection at the east building, which presents a façade or formidable length to the courtyard, was, in the Board's estimation, just as clearly a design deficiency. The failure to connect the "residential plaza" outside the east building to the interior of the building was, in the Board's view something that needed continuing evaluation. Additionally, each of the proposed structures presented expansive blank walls at the level of pedestrian interaction. Although landscaping could ameliorate some of that condition, the design team was urged to continue to address the desirability of providing intelligible connectivity between the inside and outside of the structures, especially along their 35th Avenue South facing facades.

Development Standard Departures

Although a request for only a single departure (side setback depth) had been anticipated at the Early Design Guidance meeting of January 22, 2008, the following departures relevant to the west building were identified, requested and recommended for approval at the November 18, 2008, Design review Board Recommendation meeting:

<i>Development Standard</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Comment /Rationale by Applicant</i>	<i>Board Recommendation</i>
1. SMC 23.45.056 C1 <i>Street-level, street-facing façade requirements.</i>	<i>Setbacks. Street-level, street-facing facades must be located within ten (10) feet of the street lot line, unless wider sidewalks, plazas, or other approved landscaped or open spaces are provided.</i>	<i>The building, whose long side faces onto 35th Avenue S, is set back to 9'-3" average setback from east lot line.</i>	<i>The reduced side setback allows the building to be set back 27'-10" from the west lot line, as had been recommended by the Board.</i>	<i>Approve, in keeping with Design Guidelines: A-1, A-7, B-1, D-1, D-12 and E-2.</i>
2. SMC 23.45.060 B2c	<i>Vehicular access to parking to be from the street when alley across from Single-family zone.</i>	<i>Allow vehicular access to parking from alley.</i>	<i>Access from S. Mead Street too disruptive to Noji Garden neighbors, S, Juneau Street of limited capacity, 35th Avenue S. to be developed for pedestrian use only.</i>	<i>Approve, in keeping with Design Guidelines: A-2, A-5, A-8, D-8.</i>
3. SMC 23.45.054 B1	<i>Apartment buildings with depths greater than 65 feet shall be modulated with along all side facades to a minimum depth of 8 feet and minimum width of 10 feet and maximum width of 40 feet.</i>	<i>Allow façade not to meet strict modulation requirements of Code.</i>	<i>Portion of building cants to tie in with cant of building on the eastern site, providing a better design solution than proscriptive modulation.</i>	<i>Approve, in keeping with Design Guidelines: A-1, A-2, C-3, and D-2.</i>

The Board, in recommending the approval of the overall design and the granting of the requested departures from development standards, did so with the following recommended conditions:

1. Continue to explore with DPD and the assigned planner ways of improving the interplay between inside and outside of the two proposed structures along their 35th Avenue S. facades. In particular, explore a more direct connection between the proposed “residential patio” and the interior circulation of the east building.

2. Work with DPD and the assigned planner to define a more clearly inviolable pedestrian pathway through the drop-off plaza at the north edge of the development so as to connect pedestrians safely with the alley and the sidewalks proposed for the northern portion of 35th Avenue S.
3. Work with DPD and the assigned planner to develop a landscape plan that clearly shows clusters of plantings designed to ameliorate the appearance of blank facades and which details such elements as lighting (both façade and pathway) and artwork, and one that generally provides greater specificity to both intended hardscape and planting materials.

ANALYSIS AND DECISION - DESIGN REVIEW

The Director of DPD has reviewed the recommendations of the Design Review Board and finds that the proposal is consistent with the *City of Seattle Design Review Guidelines for Multifamily & Commercial Buildings Design Guidelines*. The Director **APPROVES** the subject design consistent with the Board's recommended conditions which are noted at the end of the decision.

This decision is based on the Design Review Board's final recommendations, on the plans, drawings and other materials presented at the public meeting on November 18, 2008 and the plans on file at DPD. The design, siting, and architectural details of the project are expected to remain substantially as presented at the recommendation meeting except for those alterations made in response to the recommendations of the Board or in response to correction notices and incorporated into the plan sets subsequently submitted to DPD.

ANALYSIS - STATE ENVIRONMENTAL POLICY ACT (SEPA)

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated May 17, 2008), annotated by the Land Use Planner and resubmitted after revision by the applicant (dated December 12, 2008). The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision. This decision also makes reference to and incorporates the project plans submitted with the project application.

The Seattle SEPA Ordinance provides substantive authority to require mitigation of adverse impacts resulting from a proposed project (SMC 25.05.655 and 25.06.660). Mitigation, when required, must be related to specific environmental impacts identified in an environmental document and may be imposed to the extent that an impact is attributable to the proposal, and only to the extent the mitigation is reasonable and capable of being accomplished. Additionally, mitigation may be required when based on policies, plans and regulations as enunciated in SMC 25.05.665 to SMC 25.05.675 inclusive (SEPA Overview Policy, SEPA Cumulative Impacts Policy, SEPA Specific Environmental Policies). In some instances, local, state or federal regulatory requirements will provide sufficient mitigation of an impact and additional mitigation imposed through SEPA may be limited or unnecessary.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in pertinent part that “where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation.” Under specific circumstances, mitigation may be required even when the Overview Policy is applicable. SMC 25.05.665(D).

ENVIRONMENTAL IMPACTS

The information provided by the applicant and its consultants, the public comments received, and the experience of DPD with the review of similar proposals form the basis for conditioning the project. The potential environmental impacts disclosed by the environmental checklist are discussed below. Where necessary, mitigation is called for under Seattle’s SEPA Ordinance (SMC 25.05).

Short - Term Impacts

Anticipated short-term impacts that could occur during demolition excavation and construction include; increased noise from construction/demolition activities and equipment; decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work; increased traffic and demand for parking from construction equipment and personnel; conflicts with normal pedestrian and vehicular movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Many of these impacts are mitigated or partially mitigated by compliance to existing codes and ordinances; specifically these are: Storm-water, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). The Department finds, however, that certain construction-related impacts may not be adequately mitigated by existing ordinances. Further discussion is set forth below.

Earth

It is not anticipated that perched groundwater will be encountered during excavation; any construction dewatering can be handled with ditching and sumps within the excavation. The Seattle Stormwater Grading and Drainage Control Code requires that water released from the site be clean and limits the amount of suspended particles therein. Specifically, the ordinance provides for Best Management Practices to be in place to prevent any of the water or spoil resulting from excavation or grading to enter the area of the wetland or its buffer. No SEPA policy based conditioning of earth impacts during construction is necessary.

Traffic and Parking

Traffic during some phases of construction, such as excavation and concrete pouring, will be expected to be great enough to warrant special consideration in order to control impacts on surrounding streets. Seattle Department of Transportation will require a construction phase truck transportation plan to deal with these impacts. The applicant(s) will be required to submit a Truck Trip Plan to be approved by SDOT prior to issuance of any demolition or building permit. The Truck Trip Plan shall delineate the routes of trucks carrying project-related materials.

Noise-Related Impacts

Residential uses in the vicinity of the proposal will experience increased noise impacts during the different phases of construction. Compliance with the Noise Ordinance (SMC 22.08) is required and will limit the use of loud equipment registering 60 dBA or more at the receiving property line or 50 feet to the hours between 7:00 a.m. and 10:00 p.m. on weekdays, and between 9:00 a.m. and 10:00 p.m. on weekends and holidays.

Although compliance with the Noise Ordinance is required, additional measures to mitigate the anticipated noise impacts may be necessary. The SEPA Policies at SMC 25.05.675.B and 25.05.665 allow the Director to require additional mitigating measures to further address adverse noise impacts during construction. Pursuant to these policies, it is Department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance may be necessary. In addition, therefore, as a condition of approval, the proponent will be required to limit the hours of construction activity not conducted entirely within an enclosed structure to non-holiday weekdays between 7:00 a.m. and 7:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m.

The Department also recognizes that in some cases work after normal hours could lessen traffic impacts or could substantially shorten the total construction time frame, and hence the duration of some impacts. Excavation below grade, below grade cement-pouring foundation work, and other construction activities with proper impact reducing technologies and management practices in place may be candidates for after-hours work and may be allowed if set forth in an approved Construction/Noise Impact Management Plan prepared and submitted for DPD approval before any phase of the construction begins. Otherwise the restrictions stated in the previous paragraph shall apply throughout the project's demolition, excavation and construction phases.

Air Quality Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- Erosion from excavation and storm water impacts from ground clearing,
- Increased noise levels,
- Decreased air quality due to suspended particulates (dust) from excavation and construction, hydrocarbon emissions and greenhouse gas emissions from construction vehicles, equipment, and the manufacture of the construction materials.

Construction will create dust, leading to an increase in the level of suspended air particulates, which could be carried by wind out of the construction area. Compliance with the Street Use Ordinance (SMC 15.22.060) will require the contractors to water the site or use other dust

palliative, as necessary, to reduce airborne dust. In addition, compliance with the Puget Sound Clean Air Agency regulations will require activities, which produce airborne materials or other pollutant elements to be contained with temporary enclosure. Other potential sources of dust would be soil blowing from uncovered dump trucks and soil carried out of the construction area by vehicle frames and tires; this soil could be deposited on adjacent streets and become airborne. The Street Use Ordinance also requires the use of tarps to cover the excavation material while in transit, and the clean up of adjacent roadways and sidewalks periodically. Construction traffic and equipment are likely to produce carbon monoxide and other exhaust fumes. Regarding asbestos, Federal Law requires the filing of a Notice of Construction with the Puget Sound Clean Air Agency ("PSCAA") prior to any demolition on site. If any asbestos is present on the site, PSCAA, the Department of Labor and Industry, and EPA regulations will provide for the safe removal and disposal of asbestos.

Construction activities themselves will generate minimal direct impacts. However the indirect impact of construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project. No potential short term adverse impact to air is anticipated and therefore air quality mitigation is not necessary.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas emissions primarily from increased vehicle trips but also the projects energy consumption, increased demand for public services and utilities; increased height, bulk, and scale on the site; and increased area traffic and demand for parking. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development.

Air Quality

The number of vehicular trips associated with the project will increase the quantities of carbon dioxide and other greenhouse gas emissions in the area. Additionally, the project will create a level of electrical energy demand and natural gas consumption that does not currently exist on the site. Together these changes will result in ambient increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Height, Bulk, and Scale

The proposal does not exceed the height of development allowed in the Midrise zone. The height, bulk and scale measures were addressed during the Design Review process. Pursuant to

the Height, Bulk and Scale Policy of SMC 25.05.675 a project that is approved pursuant to the design review process shall be presumed to comply with the height, bulk and scale policies. The proposed structures have been endorsed by the Design Review Board as appropriate in height, bulk and scale for the project.

Transportation

The traffic impacts expected from the proposed project are disclosed in the Traffic Impact Analysis prepared by Transportation Solutions, Inc., and dated June 5, 2008. According to the analysis, the combined project (3008417 and 3005902) for 150 residential units is forecasted to generate fewer than 68 AM peak hour trips (12 in/56 out), 80 PM peak hour trips (54 in/26 out) and 897 total trips on a weekday. Although not broken out by building in the TSI Traffic Impact Analysis, approximately one third of these trips would be generated by the proposed structure at 5721 35th Avenue S., the subject site of this SEPA analysis. Future traffic volumes for the entire proposed project (3008417 and 3005902) will not noticeably increase vehicle delay queues at the S. Orcas Street and M L King, Jr. Way S. or the S. Orcas Street and 35th Avenue S. intersections. These study intersections are forecasted to operate at Level of Service (LOS-B) under future with both projects conditions.

Transportation Concurrency

The City of Seattle has implemented a Transportation Concurrency system to comply with a requirement of the Washington State Growth Management Act (GMA). The system, described in DPD *Director's Rule 4-99* and the City's Land Use and Zoning Code, is designed to provide a mechanism that determines whether adequate transportation facilities would be available "concurrent" with proposed development projects. The screen-lines relevant to this project would have v/c ratios less than the respective LOS standard and the addition of peak hour traffic generated by the proposal would meet the City's transportation concurrency requirements.

Parking Impacts

The proposed supply of 62 stalls meets the minimum required by Code. No other SEPA conditioning of parking impacts will be imposed.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of DPD as the lead agency of the completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

SEPA CONDITIONS

Based upon the above analysis, the Director has determined that the following conditions are reasonable and shall be imposed pursuant to SEPA and SMC Chapter 25.05 (Environmental Policies and Procedures).

Prior to Issuance of the Master Use Permit

The owner(s) and/or responsible party(s) shall:

During Construction

1. The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. Since more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction:

The hours of construction activity not conducted entirely within an enclosed structure shall be limited to non-holiday weekdays between 7:00 a.m. and 7:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m. unless this restriction is modified on a case by case basis or in an approved Construction/Noise Impact Management Plan prepared and submitted to DPD for approval before any demolition or any phase of construction begins.

Conditions-Design Review

Prior to Issuance of the Master Use Permit

2. Continue to explore with DPD and the assigned planner ways of improving the interplay between inside and outside of the two proposed structures along their 35th Avenue S. facades. In particular, explore a more direct connection between the proposed “residential patio” and the interior circulation of the east building.
3. Work with DPD and the assigned planner to define a more clearly inviolable pedestrian pathway through the drop-off plaza at the north edge of the development so as to connect pedestrians safely with the alley and the sidewalks proposed for the northern portion of 35th Avenue S.
4. Work with DPD and the assigned planner to develop a landscape plan that clearly shows clusters of plantings designed to ameliorate the appearance of blank facades and which details such elements as lighting (both façade and pathway) and artwork, and one that generally provides greater specificity to both intended hard scape and planting materials.

Prior to Issuance of a Certificate of Occupancy

5. The design, siting, and architectural details of the project shall remain substantially as presented at the Design Review recommendation meeting of November 18, 2008, except for those alterations made in response to the recommendations of the Board and incorporated into the plan sets to be re-submitted to DPD prior to issuance of the Master Use Permit. Compliance with the approved design features and elements, including exterior materials, architectural detail, facade colors, and landscaping, shall be verified by the DPD Planner assigned to this project or by the Manager of the Design Review Program. Inspection appointments with the Planner shall be made at least three (3) working days in advance of the inspection.

Signature: _____ (signature on file) Date: February 11, 2010

Michael Dorcy, Senior Land Use Planner
Department of Planning and Development
Land Use Services

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